

RD AN No. 4058 (1980-D)  
March 14, 2005

TO: State Directors  
Rural Development

ATTENTION: Rural Housing Program Directors,  
Rural Development Managers, and  
Community Development Managers

FROM: Russell T. Davis      *(Signed by Russell T. Davis)*  
Administrator  
Rural Housing Service

SUBJECT: Single Family Housing Guaranteed Rural Housing Loan Program  
Future Recovery of Real Estate Owned Sale Proceeds

**PURPOSE/INTENDED OUTCOME:**

The purpose of this Administrative Notice (AN) is to clarify RD Instruction 1980-D requirements for the future recovery of sale proceeds when Real Estate Owned property (REO) held by the guaranteed lender sells at a higher price than the appraised value used to estimate a loss on unsold REO.

**COMPARISON WITH PREVIOUS AN:**

This is a replacement of RD AN 3865 (1980-D), dated May 26, 2003, that expired March 31, 2004.

EXPIRATION DATE:  
March 31, 2006

FILING INSTRUCTIONS:  
Preceding RD Instruction 1980-D

## **BACKGROUND:**

To control the cost of REO property management and disposition and encourage its expeditious sale, Guaranteed Rural Housing (GRH) establishes a settlement date for loss claims. For REO sold within six months of the acquisition date (the date of foreclosure sale or deed-in-lieu recordation), the settlement date is the date of the REO sale. For REO unsold during that time period, the settlement date is six months from the acquisition date, unless a thirty-day extension is authorized by GRH for a property under a sale contract. In any case, when the settlement date is reached, allowable interest accrual ceases and the loss claim must be filed within thirty days.

The basic loss claim calculation is the total debt owed the lender less the security property sale proceeds. The total debt includes unpaid principal, authorized protective advances, interest accrued through the settlement date, foreclosure expenses, and REO management and resale expenses. In order to have a loss claim based on actual REO expenses and sale proceeds, REO must be sold within six months of the acquisition date. A loss claim on unsold REO is based on estimated net sale proceeds, using an estimated sale price and estimated REO expenses.

For a claim calculation on unsold REO, the estimated sale price is based on a third-party liquidation value appraisal obtained by the Agency. A liquidation value is used because it takes into consideration the market pressures on a distressed property. This value is multiplied by a cost factor to estimate REO expenses. The cost factor, developed and updated periodically by the Veterans Administration (VA), is based on a three-year average of VA acquired property operating expenses, selling expenses, and administrative expenses. The factor also takes into consideration the cost of repairs to bring the property to minimum property standards. For example, a loss claim based on an estimated sale price of \$76,500, multiplied by the current factor of 11.87 percent, reimburses the lender \$9,080.55 for estimated REO property management and disposition expenses.

When the REO associated with a claim based on estimated sale proceeds is ultimately sold, the actual contract sale price may be higher than the liquidation appraised value used for the claim. If so, the difference (between the sale price and the liquidation appraised value) is considered future recovery to be shared between the Agency and the lender at the same ratio as the estimated loss. The Future Recovery Calculator (Attachment 1) should be used for the unsold REO.

When the lender reports an actual sale price results in future recovery, the lender may document and deduct certain REO costs that were not considered in the original claim. A HUD-1, Settlement Statement, normally provides the necessary documentation, but other similar documentation may be used. The combined deduction cannot exceed the difference between the actual contract sale price and the estimated sale price used for the claim. The following items may be deducted from future recovery of sale proceeds:

- costs of additional property improvements that directly resulted in an increased property value and sale price. These additional cost allowances are not for repairs made subsequent to the claim settlement, or improvements that were already considered in the estimated sale price or appraised value used for the claim.
- additional real estate commission based on the difference between the actual contract sale price and the estimated sale price used for the claim, and
- additional seller concessions that directly resulted in an increased sale price. This additional cost allowance is only for seller concessions that are above what is typical and customary for the area and was offset by an increased sale price.

When made aware of future recovery, GRH will prepare a future recovery worksheet (included in the Single Family (SF) GRH Loss Claim and Future Recovery package referenced below) and notify the lender of the future recovery due to GRH. When the payment is received from the lender, GRH will report the future recovery and remit the payment according to the User's Guide for the SF-GRH Loss Claim and Future Recovery Process that was previously distributed to all Rural Development State Offices. Copies of the User Guide and the Future Recovery Calculator worksheet are available from the Single Family Guaranteed Loan Program Division.

#### **IMPLEMENTATION RESPONSIBILITIES:**

The following procedures supplement the regulation presently in place. Please review these policies and procedures with all staff members responsible for SF-GRH loss claim processing and assure that they are implemented uniformly within your jurisdiction.

1. When an estimated claim is paid, advise the lender, servicer, or payee, as appropriate, of the following: (a) the estimated sale price used to calculate the claim, (b) that future recovery may be due if the actual sale price exceeds the estimated sale price, (c) when and how to report future recovery of sale proceeds, and (d) the consequences of failure to report future recoveries (GRH monitoring and possible termination of lender eligibility).
2. Flag claims that were paid based on estimated sale proceeds and contact the lender 6 months later to inquire about the REO status if the actual sale information has not been received. Request the lender to submit a HUD-1, Settlement Statement, or similar document as verification of the sale amount. Follow-up should continue until the sale information is received.
3. For Nationally approved lenders, report non-compliance with requests for sale information or payment of future recovery to the National Office, SF Guaranteed Loan Program Division.

4. For State approved lenders, consider non-compliance with requests for sale information or payment of future recovery as grounds for a lender monitoring review under RD Instruction 1980-D, section 1980.309(g)(3).
5. Review compliance with future recovery provisions in conjunction with lender monitoring reviews under RD Instruction 1980-D, section 1980.309(g). The National Office is responsible for Nationally approved lender monitoring. State Offices or designee are responsible for State-approved lender monitoring.
6. GRH Lender Monitoring Checklist - Servicing Requirements, Property Management and Sale - Future Recovery (Attachment 2) may be used to review compliance with future recovery provisions.

Questions on future recovery may be directed to Joyce M. Halasz or Susanne Wilson of the Single Family Guaranteed Loan Program. The telephone number is (202) 720-1452.

Attachments

**USDA RURAL DEVELOPMENT**  
**SINGLE FAMILY - GUARANTEED RURAL HOUSING**  
**FUTURE**  
**RECOVERY CALCULATOR**

BORROWER NAME: <b>Doe, J.</b>	
Borrower SSN: <b>123-45-6789</b>	
LENDER LOAN NUMBER: <b>9876</b>	
LENDER TAX ID NO. (9 digit number): <b>12-3456789</b>	
LENDER NAME: <b>Central S&amp;L</b>	
DATE OF ORIGINAL LOSS CLAIM (mm/dd/yyyy): <b>10/1/2004</b>	
SEE THE "USER GUIDE" FOR COMPLETE INSTRUCTIONS ON USING THE "FUTURE RECOVERY CALCULATOR"	
"All Fields Must be Completed"	
TOTAL LOSS (Net Loss Amount from the GLS Payment Information Section of View/Update screen or the Advice of Payment/Notice of Termination)	\$21,238.13
TOTAL COMPUTED LOSS PAYABLE (Loss Amount Paid to Lender from Computed Loss Info Section/View/Update screen of GLS or the Advice of Payment/Notice of Termination)	\$21,238.13
ORIGINAL LOAN AMOUNT	\$85,000.00
LIQUIDATION APPRAISED VALUE	\$76,500.00
AMOUNT REO PROPERTY WAS SOLD TO THIRD PARTY (Contract Price from HUD-1)	\$79,000.00
DIFFERENCE BETWEEN LIQUIDATION APPRAISED VALUE AND AMOUNT SOLD TO 3rd PARTY (Automated)	\$2,500.00
<b><u>ENTER EITHER THE ACTUAL PERCENTAGE OR DOLLARS AMOUNT OF REO SALES COMMISSION BELOW</u></b>	
ACTUAL PERCENTAGE RATE OF COMMISSION FOR REO SALE (Enter the actual Commission percentage rate charged to sell the REO) <b>OR</b>	
ACTUAL DOLLAR AMOUNT OF COMMISSION FOR REO SALE (Enter the actual commission charged to sell the REO)	\$150.00
ALLOWANCE FOR ADDITIONAL COMMISSION (Commission capped at 6% of Difference between Appraised Value and Actual Sale Price) (Automated)	\$150.00
COST OF CAPITAL IMPROVEMENTS DIRECTLY RESULTING IN AN INCREASED SALES PRICE	
AMOUNT OF RD APPROVED SELLER CONCESSIONS BEYOND WHAT IS CUSTOMARY	
ADJUSTED SALES PRICE (Automated)	\$78,850.00
NET DIFFERENCE BETWEEN LIQUIDATION APPRAISED VALUE AND ADJUSTED SALES PRICE TO 3rd PARTY (Automated)	\$2,350.00
OTHER RECOVERY NOT IN ORIGINAL CLAIM (Judgment, Insurance claim, etc.)	
SUM OF PREVIOUSLY REPORTED RECOVERY (Not included in original Claim)	
SUM OF PREVIOUSLY REPORTED RECOVERY PAID TO RURAL DEVELOPMENT	
35% of ORIGINAL LOAN AMOUNT (Automated)	\$29,750.00
TOTAL AMOUNT OF LOSS > 35% OF LOAN (Automated)	\$0.00
TOTAL AMOUNT OF RECOVERY (Automated)	\$2,350.00
<b><u>ALLOCATION OF RECOVERY:</u></b>	
<b><u>Split between Rural Development and Lender</u></b>	
RHS's 85% OF AMOUNT OF RECOVERED LOSS > 35% OF LOAN (Automated)	\$0.00
LENDER'S 15% PORTION OF LOSS > 35% OF LOAN (Automated)	\$0.00
<b><u>SUMMARY OF TOTAL TO RURAL DEVELOPMENT:</u></b>	
RD's 100% of the Difference Between Total Recovery & Loss over 35% (Automated)	\$2,350.00
RD's 85% OF SPLIT (Automated)	\$0.00
(LESS) PREVIOUS RECOVERY PAYMENTS MADE TO RURAL DEVELOPMENT (Automated)	\$0.00
<b>AMOUNT LENDER TO PAY RURAL DEVELOPMENT (Maximum capped at Total Loss) (Automated):</b>	<b>\$2,350.00</b>

Guaranteed Rural Housing (GRH) Lender Monitoring Checklist - Servicing Requirements

Lender Name

Date:

Reviewer:

Borrower Name

GRH Case Number

Property Management and Sale - Future Recovery

- A. Population - All Single Family GRH loss claims paid on REO unsold at the time of the claim, since the last review.
- B. Sample - Select the greater of 5 or 10%.

Complete the checklist to assess whether the lender has met the minimum GRH servicing standards for future recovery of REO sale proceeds.

Questions	Y/N/NA	Notes
1. Did the lender report the REO sale and future recovery, if any, within 30 days of the sale?		
2. When advised of future recovery due, did the lender promptly remit it?		